IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL FIRST APPEAL No. 241 of 2003

GHANSHYAM SINGH & ORS
V/S
KISHAN SINGH & ORS

Mr. MC BHOOT, for the appellant / petitioner

Mr. JITENDRA CHOPRA, for the respondent

Date of Order : 1.2.2005

HON'BLE SHRI N P GUPTA,J.

ORDER

The matter was heard for quite some time on 29th January 2005, and during course of arguments, the main grievance of the counsel for the appellant was that the learned trial Court had directed the Commissioner to give opportunity to the parties to give the respective bids for the valuation of the property, but then, somehow the appellant did not get proper opportunity of giving bid, and the learned trial Court has passed the impugned final decree, accepting the Commissioner's report, while as a matter of fact, the Commissioner was to receive the bids about the price of the properties, so as to arrive at the total valuation of the property, and thereafter, 1/6th share was to be given to each of the person held entitled to it by the preliminary decree dated 27.7.94.

After perusing the record, it was found that the appellant did not get opportunity to give bid, therefore, the learned counsel for the appellant was directed orally to keep his client present today to give bids for the valuation of the property. Today learned counsel for the appellant submits that so far as the property in his possession is concerned, being property 'A', he gives the bid about its valuation to be Rs.10,25,000/-, and does not dispute the price bid as given by the respondent for the other property. The respondent is not inclined to give any higher bid for the property 'A' and accepts the bid given by the appellant.

This, in my view, brings to an end to the dispute of bid, and now according to the bids given by the respective parties, and regarding which now, there is no dispute, the total valuation of the property comes to Rs.27,75,000/-.

In that view of the matter, I think it appropriate to direct the learned trial Court to ascertain, and identify the particular property, which is to be given to the respective shareholder on the basis of the valuation, as arrived at above, so as to give each respective shareholder the extent of share in terms of the final decree.

Accordingly, the appeal is disposed of with a direction to the learned trial Court to take the total valuation of the property to be divided to be Rs.27,75,000/-, and have the specified sharers identified to be given to the respective shareholder on the basis of the aforesaid valuation, so as to give each respective shareholder the extent of right, to which he has been held entitled to, under the preliminary decree. Since the matter is already very old, the learned trial Court is directed to complete the exercise most expeditiously, preferably within a period of two months from today.

Mr.Chopra submits that his client has already deposited a substantial amount on the basis of the valuation given by him, and after taking into account his tentative share. Since the sharers are to be now got identified by the learned trial Court, the amount deposited by the respondent is directed to be refunded to him immediately.

The appeal is allowed in the aforesaid terms.

(N P GUPTA),J.

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